

REMARKS

The foregoing amendment and the following remarks are in response to the Office Action mailed October 20, 2003.

Applicant appreciates the indication that claims 3-5, 24 and 25 contain allowable subject matter. The remaining claims are also now believed to distinguish over the art.

With respect to paragraph 1 of the Office Action, applicant agrees that claims 1, 3-8 and 17-25 are pending. Claims 1, 17 and 21 have been amended in this response, as set forth above.

With respect to paragraph 2 of the Office Action, applicant acknowledges that the original patent has not been surrendered, an offer to surrender has been made, and applicant will either surrender the original patent, if it can be located, or provide an affidavit of loss thereof in order to secure allowance of this application.

With respect to paragraph 3 of the Office Action, applicant acknowledges that a supplemental declaration will be appropriate in this application. However, applicant desires that such a supplemental declaration cover all of the corrected errors, and will supply it as soon as the form of the claims is established.

With respect to paragraph 4 of the Office Action, applicant submits herewith an additional Declaration of Vasudeva. Paragraph 4 of the Office Action acknowledged that the previous declarations of Wei and Vasudeva established that the subject matter of the applied U.S. Patent No. 6,105,770 was owned by, or obligated for assignment to, Maxtech both before the invention (Patent No. 5,893,457) of Mr. Wei was made and after the invention of Mr. Wei was made. However, the Office Action raises the possibility that there might have been some hiatus in Maxtech's rights "when" Mr. Wei's invention was made.

The Declaration of Vasudeva submitted herewith states that his obligation to assign the respective subject matter of U.S. Patent 5,803,254, U.S. Patent 5,887,715, U.S. Patent 6,105,767 and U.S. Patent 6,105,770 was continuing from the time the respective subject matter was developed such that the respective subject matter was owned or under an obligation for assignment to Maxtech at all times from when the respective subject matter of those patents was first made. Thus, if the invention of Mr. Wei was made after that of applied U.S. Patent 6,105,770, then the ownership or obligation to assign the subject matter of Vasudeva Patent 6,105,770 encompassed the time when the invention of Mr. Wei was made. The Declaration of Vasudeva also now refers to "subject matter" of the U.S. Patent 6,105,770 and other Vasudeva patents to satisfy any concerns in that regard.

With respect to paragraph 5 of the Office Action, claims 18 and 21 are rejected under 35 U.S.C. 112. The claims specify that the first sidewall of the base is integral to the back wall of the base. The Examiner contends that the specification does not call for this and the integral nature is not inherent in the drawings. Applicant believes this is shown in the drawings, and with reference to FIG. 2, upper right corner adjacent the reference numeral 102, the absence of any joint or seam lines is indicative that the base is an integral structure, wherein the first sidewall, back wall are integral.

With respect to paragraph 6 of the Office Action, claim 21 is rejected under 35 U.S.C. 112 for lack of antecedent basis for "said base." The claim has been amended to call out "said base portion," antecedent basis for which is found in claim 17.

With respect to paragraphs 7 and 8 of the Office Action, claims 1, 6-8 and 17-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Vasudeva U.S. Patent 6,105,770. At the

outset, applicant notes that the receiving members in Vasudeva '770 are spring biased to a presentation position and are moved between the closed position and the presentation position by cams and/or linkages. Thus, the operational principles are different.

Further, regarding claim 1, before amendment it called for at least one receiving member pivotally connected to one of said sidewalls at one end of a front side thereof and pivotally connected to a sliding plate at said one end of a rear side thereof. Although the drawing clearly shows the pivotal connection point of applicant's receiving member to be at or closely adjacent the front side thereof, the Office Action takes the position that the term "front side" is broad enough to include any location that is forward of any considered reference location and not just forward of the center of the end. In Vasudeva '770, the pivotal connection is at or to the rear of the center of the receiving member.

Although applicant believes that the claim before amendment should be interpreted with reference to the specification and the drawing and would therefore be read to specify locations that are forward of the center of the end, claim 1 has nevertheless been amended to state that the location of the pivotal connection on said at least one receiving member is closer to the front side of the receiving member than to the rear side of the receiving member. This comports with the drawing and plain meaning of the specification, and also obviates the anticipation rejection based on Vasudeva '770. The amendment also obviates the rejection of claims 6-8.

Regarding claim 17, it has been amended to specify that the actuating member is longer than the receiving member and that the receiving member is pivotally mounted to and between one side wall and the separating board and that the actuating member is pivotally mounted to and between the first sidewall and the second sidewall. This clearly obviates any anticipation by

Vasudeva '770 of claim 17 and of claims 18-23 dependent therefrom.

With respect to paragraph 9 of the Office Action, claims 17-20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard U.S. Patent 4,531,646. This rejection is also obviated by the amendment to claim 17, wherein the actuating member is defined as being longer than the receiving member. The receiving member is also defined in claim 17 as being mounted to and between a first sidewall and a separating board. The amendment to claim 17 also specifies that the separating board is spaced apart from both the first and second sidewalls. Applicant does not believe that the vertical member 26 of Howard constitutes a separating member, but in any event it is not a separating member to which a receiving member that is shorter than the actuating member can be mounted. The longer actuating members is also now specified as being mounted to and between the first and second sidewalls. Thus, claim 17, as well as dependent claims 18-20, 22 and 23 distinguish over the Howard '646 patent.

With respect to paragraphs 10 and 11 of the Office Action, as noted at the outset, applicant will provide a supplemental reissue declaration when the form of all of the claims in this reissue application is settled.

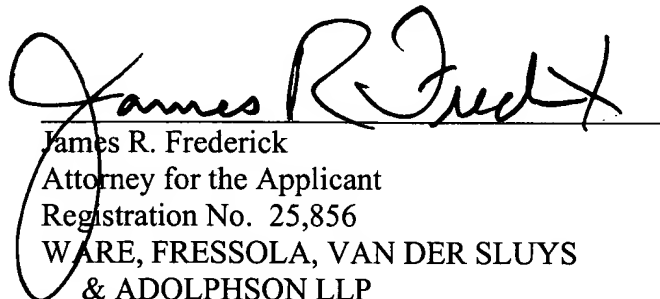
With respect to paragraph 12 of the Office Action, it contained commentary on applicant's arguments, and it will be noted that the amendments to the claims satisfy the points made in the commentary.

A Statement of the Status of Claims and Support for Claim Changes is attached hereto. If any additional fees are due in connection with this response, please charge the same to Deposit Account No. 23-0442.

Accordingly, reconsideration of the claims and an indication of allowable subject matter in all of the claims is now earnestly solicited. Applicants and attorney would appreciate a telephone call from the Examiner in this regard, so that preparation of the supplemental reissue declaration can be made.

Respectfully submitted,

Date: Jan 20, 2004


James R. Frederick
Attorney for the Applicant
Registration No. 25,856
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street, P. O. Box 224
Monroe, Connecticut 06468
Telephone: (203)261-1234
Facsimile: (203)261-5676

Status of Claims and Support for Claim Changes

- Claim 1. Pending and now three times amended by clarifying location of pivot connections.
Support in original drawing and specification.
- Claim 2. Previously canceled.
- Claims 3-5. No changes.
- Claim 6. Previously amended.
- Claim 7. Previously amended.
- Claims 8. No changes.
- Claims 9-16. Previously canceled.
- Claim 17. Added with RCE. Now amended to specify that separating board is spaced from both the first and second sidewalls, that the actuating member is longer than the receiving member and is pivotally mounted to the first sidewall. Also amended to specify that the receiving member and actuating member are mounted to the first sidewall. Support is found in the specification and drawings.
- Claim 18. Added with RCE, no further amendment.
- Claim 19. Added with RCE, no further amendment.
- Claim 20. Added with RCE, no further amendment.
- Claim 21. Added with RCE. Currently amended to change "base" to "base portion" for better antecedent basis.
- Claim 22. Added with RCE, no further amendment.
- Claim 23. Added with RCE, no further amendment.
- Claim 24. Added with RCE, no further amendment.
- Claim 25. Added with RCE, no further amendment.